

1 HONORABLE RICHARD A. JONES
2
3
4
5
6
7
8
9

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 ELLEN GRIFFIN,

CASE NO. C13-38 RAJ

11 Plaintiff,

ORDER

12 v.

13 THE BOEING COMPANY,

14 Defendant.

15
16 On June 25, 2015, this court entered an order granting summary judgment in favor
17 of defendant, the Boeing Company (“Boeing”). Dkt. ## 91, 92. Plaintiff appealed this
18 order on July 15, 2015. Dkt. # 95. Two days after filing her notice of appeal, on July 18,
19 2015, she filed a motion for reconsideration of the underlying order dismissing her case.
20 Dkt. # 96. She then filed an amended motion for reconsideration on July 21, 2015. Dkt.
21 ## 98, 101. For the reasons stated below, plaintiff’s motion (Dkt. # 98) is DENIED.
22
23

24 By filing an appeal with the Ninth Circuit prior to filing her motion for
25 reconsideration, plaintiff divested the court of jurisdiction “over those aspects of the case
26 involved in the appeal.” *Stein v. Wood*, 127 F.3d 1187, 1189 (9th Cir. 1997). However,
27

1 Federal Rule of Civil Procedure 62.1 permits the court to treat plaintiff's motion as a
2 request for an indicative ruling in certain circumstances:

3 If a timely motion is made for relief that the court lacks
4 authority to grant because of an appeal that has been docketed
5 and is pending, the court may: (1) defer considering the
6 motion; (2) deny the motion; or (3) state either that it would
7 grant the motion if the court of appeals remands for that
purpose or that the motion raises a substantial issue.

8 Fed. R. Civ. P. 62.1(a); *see also Braun-Salinas v. Am. Family Ins. Grp.*, 2015 WL
9 128040, at *2 (D. Or. Jan. 8, 2015) (applying Rule 62.1 to a motion for reconsideration
10 filed after a notice of appeal).

11 Under this court's Local Rules, plaintiff was required to file any motion for
12 reconsideration within fourteen days after the order to which it relates is filed. LCR
13 7(h)(2). The subject order was issued on June 25, 2015. Thus, plaintiff was required to
14 file any motion for reconsideration no later than July 9, 2015. She missed that deadline
15 by at least nine days. Accordingly, Rule 62.1 does not apply, and this court lacks
16 jurisdiction to consider the motion for reconsideration.

17 However, even if this court were to excuse the late filing and consider the motion
18 under Rule 62.1, the Court concludes that the motion for reconsideration is without merit.
19 "Motions for reconsideration are disfavored." LCR 7(h). "The court will ordinarily deny
20 such motions in the absence of a showing of manifest error in the prior ruling or a
21 showing of new facts or legal authority which could not have been brought to its attention
22 earlier with reasonable diligence." LCR 7(h)(1). Plaintiff's instant motion for
23 reconsideration neither demonstrates manifest legal error, nor does it direct the court to
24 25
26
27

1 new facts or legal authority that she could not have presented previously in opposition to
2 Boeing's motion. There is nothing in plaintiff's instant motion that persuades the court
3 its prior decision was incorrect. Accordingly, plaintiff's motion for reconsideration (Dkt.
4 # 98) is DENIED.

5
6 Dated this 22nd day of July, 2015.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27



The Honorable Richard A. Jones
United States District Judge